

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DELLA M. DRAISE,

Plaintiff,

v.

**CAROLYN W. COLVIN,
Acting Commissioner of Social Security,**

Defendant.

Case No. 2:12-cv-542

**JUDGE GREGORY L. FROST
Magistrate Judge Mark R. Abel**

ORDER

This matter is before the Court for consideration of attorney Adrienne Pietropaolo's unopposed December 3, 2014 motion for an award of attorney fees under 42 U.S.C. § 406(b). (ECF No. 24.) Counsel seeks an award of \$10,000.00 in attorney fees.

Under 42 U.S.C. § 406(b), the Court can award reasonable attorney fees for work performed before it, not to exceed 25 percent of the past-due benefits owed to the claimant. *See* 42 U.S.C. § 406(b)(1)(A) ("Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment"). The Supreme Court has stated that the method for determining the appropriateness of an attorney fee begins by focusing on the contingent fee agreement between counsel and her client. *Gisbrecht v. Barnhart*, 535 U.S. 789, 808 (2002). Counsel has the burden of showing that the fee request is reasonable, and the court serves "as an independent

check” to assure that the agreement yields a reasonable result in a particular case. *Id.* at 807.

Here, the fee agreement is reasonable. The fee sought is approximately 15.9% of the past-due benefits, less than the 25% agreed to by Plaintiff. Additionally, Plaintiff’s counsel has not sought and will not seek an award of attorney fees under 42 U.S.C. § 406(a) for services performed at the administrative level. The fee award will be offset by \$2,550 previously awarded by the Court under the EAJA (which counsel incorrectly states as \$2,500 in the motion). (ECF No. 23.) As a result, the Court finds that the requested 42 U.S.C. § 406(b) fee of \$10,000.00 is reasonable.

The Court **GRANTS** attorney Adrienne Pietropaolo’s December 3, 2014 motion for an award of attorney fees under 42 U.S.C. § 406(b) and awards \$10,000.00 in attorney fees. (ECF No. 24.)

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE